

CHARTER COMMISSION
COMMITTEE ON STYLE MEETING
CITY AND COUNTY OF HONOLULU

WEDNESDAY, JULY 19, 2006
CITY COUNCIL COMMITTEE ROOM
SECOND FLOOR, HONOLULU HALE
4:00 P.M.

MINUTES

Committee Members Present:

Jared Kawashima
Donn Takaki
Jeffrey T. Mikulina – Late 4:13 p.m.
Darolyn Lendio
James Pacopac
Malcolm Tom

Non-Committee Commissioner Present:

Jim Myers

Committee Members Absent

Jerry Coffee – Excused

Others Present:

Chuck Narikiyo, Executive Administrator, Charter Commission
Diane Kawauchi, Deputy Corporation Counsel, Department of the Corporation Counsel
Lori K. K. Sunakoda, Deputy Corporation Counsel, Department of Corporation Counsel
Dawn Spurlin, Deputy Corporation Counsel, Department of Corporation Counsel
Loretta Ho, Secretary, Charter Commission
Nicole Love, Researcher, Charter Commission

1. Call to Order

Committee Chair Jared Kawashima called the meeting to order at 4:02 p.m. on July 19, 2006. Chair Kawashima explained the process of the meeting and went over housekeeping rules and stated that testimony will be limited to three minutes and must be related to the agenda.

2. For Approval – Minutes of the May 22, 2006 meeting

ACTION:

Commissioner Lendio moved to approve the minutes for the Committee on Style meeting of May 22, 2006. Commissioner Takaki seconded that motion. No discussion

followed and all members present voted in favor of the motion and the motion was passed.

3. Executive Administrator's Report

Executive Administrator Narikiyo stated at the June 7, 2006 full Commission meeting the Commission approved the Committee on Style's report. At the last full Commission meeting on July 11, 2006 the Commission received agency and legal review comments, which were then referred to the Committee on Style. He went on to say that the Corporation Counsel drafted some amended language of some of the proposals following their legal review, which has been attached the agenda as Attachment A. Executive Administrator Narikiyo noted on the agenda is one more possible ballot combination of Proposals 33 and 36. He noted earlier the Committee voted to combine 6 housekeeping items and today the Committee will be considering one more ballot combination, which concerns the department roles of EMS and HFD. He went on to say there is also the ballot language and order on the agenda and that staff drafted some ballot language as a starting point for their discussion.

4. Discussion and Action on Proposed Charter Amendments:

PROPOSAL 1 - Salary Commission; Amend provision regarding Council review of Commission findings.

The following individuals testified:
NONE

Written testimony:

1. Boisse Correa, Police Chief, Honolulu Police Department

Executive Administrator Narikiyo stated the current language has been approved by the Committee as well as the full Commission and there has been no changes and it appears no action was necessary.

Commissioner Myers asked for clarification from Chair Kawashima. As a non-member of the Committee, was it permissible for him to make comments from his seat or would he need to proceed to the public speaking area? Chair Kawashima responded it was permissible for Commissioner Myers to make comments from his seat with the Commissioners.

PROPOSAL 5 - Elections; Eliminate the first special election when there are only two candidates for an office.

The following individuals testified:
NONE

Written testimony:

NONE

Executive Administrator Narikiyo stated Proposal 5 does not have any changes.

Commissioner Lendio asked for a Point of Information. Commissioner Lendio asked if the Committee was voting on each proposal as they go through the process or are they going to vote at the end. Executive Administrator Narikiyo responded he viewed it as some of the proposals were voted on previously and there have been no changes since, so there is no need to vote on them again. He went on to say he did not think there was anything that precludes the Committee from voting on the proposals again if that is what the Committee wanted to do. He commented he's not certain what's proper and what's the best way to handle it. Commissioner Takaki stated he personally feels more comfortable voting on the proposals again.

Commissioner Lendio asked Corporation Counsel for their opinion on the Committee's previous vote on the proposals now that don't require language changes. Deputy Corporation Counsel Kawauchi responded she believes the Style Committee's report was approved by the full Commission and the Commission was in a period of agency and legal review. Deputy Corporation Counsel Kawauchi stated she concurred with respect to those proposals that do not have any proposed revisions, the Committee does not need to vote on those proposals again but it would not hurt to reaffirm their vote. Commissioner Lendio commented to Chair Kawashima regarding the task before the Committee is looking at the Agency and Corporation Counsel review and feedback and determine whether or not there should be any changes to the language that was adopted prior to this meeting at the full Commission meeting on the Committee on Style Report dated May 22, 2006. She went on to say she thinks Corporation Counsel is right in
C
th
L
eport
ed to
vote on those proposals again today. Commissioner Lendio responded yes because it was already voted upon and there was no Agency feedback or comments from Corporation Counsel indicating there should be a deviation from the language that has already been approved by the full Commission in the Committee on Style report from the May 22, 2006 meeting.

Chair Kawashima stated based on Corporation Counsel's statements the Committee would proceed with merely addressing those proposals on which there has been agency comments and so forth. He asked to return to Proposal 1 as it was brought to his attention that HPD made suggested changes to the text and would inquire if there were any comments to HPD suggested changes. Commissioner Lendio asked staff if the Committee received Chief Correia's comments before the full Commission meeting and was it considered before. Executive Administrator Narikiyo responded the comments were received before the last full Commission meeting on July 11, 2006. Commissioner Lendio then asked if Corporation Counsel had the opportunity to look at the proposed deletion of language and to give the Committee their opinion if that would be a substantive or just a minor change to the language. Deputy Corporation Counsel Kawauchi asked if the Committee would allow Corporation Counsel time to review the

comments at a recess of the Committee and report back to the Committee. Chair Kawashima responded in the affirmative.

PROPOSAL 27 - Liquor Commission and Civil Service; Exempt Liquor Control Administrator and Deputy Administrator from civil service.

The following individuals testified:
NONE

Written testimony:
NONE

Deputy Corporation Counsel Kawauchi stated at the Commission's suggestion she transmitted a copy of the revised suggested proposal to the Chairman of the Liquor Commission and the Liquor Commission Administrator. She offered to meet with them if they had any questions about the proposal but unfortunately did not have any communication with them and they were not present at the meeting. She stated there were a number of proposed revisions by the Corporation Counsel.

Executive Administrator Narikiyo noted that a copy of the new language was sent to the Liquor Commission asking if they had any comments to get them to us, and have seen a few of their staff and they acknowledged they received the language but also have not received anything from their office either.

ACTION:

Commissioner Lendio moved to approve the proposed language for Proposal 27 as revised by Corporation Counsel. Commissioner Pacopac seconded the motion. Discussion followed.

Commissioner Lendio stated she's concerned with the lack of response by the Liquor Commission and noted they are well aware of the issue and they testified at a previous meeting to express their concerns over certain things. She went on to say the Committee should approve the Corporation Counsel's proposed language change because there have been ample notice and have been contacted by the Charter Commission staff and the Corporation Counsel.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO, PACOPAC, TOM - 6
NOES: NONE
EXCUSED: COFFEE - 1

MOTION PASSED

PROPOSAL 28 - Ethics Commission; Allow the Ethics Commission to impose civil fines.

The following individuals testified:
NONE

Written testimony:
NONE

Deputy Corporation Counsel Sunakoda reported at the last full Commission meeting on July 11, 2006, the Corporation Counsel indicated their recommendation that the language be changed from “elected officials” to “elected officers” which was for consistency purposes in conformance with a term that is defined in the Charter and stood by their recommendation to the Committee on Style for their consideration.

ACTION:

Commissioner Lendio moved to accept the revised language proposed by the Corporation Counsel for Proposal 28. Commissioner Takaki seconded that motion. Discussion followed.

Commissioner Lendio asked staff if Commissioner Sullivan expressed her opinion to anyone about the proposed language change by the Corporation Counsel? Executive Administrator Narikiyo responded he spoke to her on various other matters relating to the Commission and this topic did not arise.

Commissioner Takaki asked if Mr. Totto of the Ethics Commission was contacted? Executive Administrator Narikiyo responded as with the Liquor Commission a copy of the proposal and the Attachment A of the agenda was sent to the Ethics Commission and staff had not received any comments.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO, PACOPAC, TOM - 6
NOES: NONE
EXCUSED: COFFEE - 1

MOTION PASSED

PROPOSAL 33 - Department of Emergency Services; Revise the Powers, Duties and Functions of the Director and the Department.

The following individuals testified:

1. Dr. Elizabeth Char, Director, Emergency Medical Service Department
2. Tom Heinrich

Written testimony:
NONE

Dr. Char testified in support of the most recent proposed language change to the Proposal 33, which ties into Proposal 36 and stated they are happy with the proposed language changes.

Deputy Corporation Counsel Spurlin stated her comments were for both Proposals 33 and 36 as she reviewed them together because they have overlapping duties. She stated she worked with both agencies to get a better understanding of their intent as far as the language stated and after getting more clarification she revised some of the language to identify who was responsible for what. Deputy Corporation Counsel Spurlin commented she researched the original language of the charter proposals identifying what duties HFD had and what duties EMS had. She went on to say when the Charter was first set up, they had chosen a structure which assigned specific duties to specific departments and they was no overlap. She continues to say prior Charter Commission's had assigned the primary responsibilities for Emergency Medical Care to Department of Health which eventually more recently was known as Emergency Medical Services. Deputy Corporation Counsel Spurlin commented she had difficulty understanding what was meant by "pre-hospital medical resource", so she talked to Dr. Char and based on their conversation she understood the intent was to say ESD handles all the medical related questions that come into the City. She stated she redrafted the proposal to reflect the original charter structure and what the intent of the agencies were when they first introduced the proposals. She went on to say she asked both agencies if they had a problem with combining both proposals on the ballot in one ballot question and it was her understanding that they did not have a problem with that.

ACTION:

Commissioner Lendio moved to approve the proposed revised language of Proposal 33 with the addition of a comma after the word "educational" in paragraph b2. Commissioner Mikulina seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO, PACOPAC, TOM - 6
NOES: NONE
EXCUSED: COFFEE - 1

MOTION PASSED

PROPOSAL 34 - Budget; Administration and enforcement of the executive capital budget ordinance -- lapse in 12 rather than 6 months.

The following individuals testified:
NONE

Written testimony:
NONE

PROPOSAL 35 - Department of Information Technology; Revise the Powers, Duties and Functions of the Director.

The following individuals testified:

NONE

Written testimony:
NONE

PROPOSAL 36 - Fire Chief; Revise the Powers, Duties and Functions of the Fire Chief and the Fire Department.

The following individuals testified:

1. Chief Alvin Tomita, Deputy Fire Chief, Honolulu Fire Department

Written testimony:
NONE

Deputy Fire Chief Tomita testified Fire Chief Silva did not have any opposition with the proposed revised language by the Corporation Counsel. He went on to say they concur with EMS and have been working hand in hand and talking with them on Proposals 33 and 36 going on the ballot concurrently and they don't have a problem with that.

ACTION:

Commissioner Lendio moved to approve the revised language as recommended by Corporation Counsel for Proposal 36. Commissioner Mikulina seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO, PACOPAC, TOM - 6
NOES: NONE
EXCUSED: COFFEE - 1

MOTION PASSED

PROPOSAL 51 - Department of Customer Services; Include the Director of Customer Services as a department head who must be nominated by the Mayor, with the advice and consent of the Council, and may be removed by the Mayor.

The following individuals testified:
NONE

Written testimony:
NONE

PROPOSAL 55 - Term Limits and Staggered Terms; Re term limits and staggered terms for Councilmembers.

The following individuals testified:

NONE

Written testimony:
NONE

Deputy Corporation Counsel Kawauchi stated that their office's revisions were an effort to be very clear in the transition language. She went on to say it's not a question about the clarity or the revisions to the Charter provisions but the transition language. She went over the alternatives they have provided to the Committee on Style. Alternative A is the provision for elimination of term limits and staggering of Council terms. Alternative B1 (Prospective) deals with eliminating staggered terms but extending the term limits from two consecutive four-year terms to three consecutive four-year terms and that transition language would be prospective excluding terms already served by an incumbent Councilmember. The second Alternative B-1 includes the words "thereafter" in the transition section paragraph three in both sentences to clarify the term limit application is for terms "thereafter". Alternative B-2 (Retroactive) is a retroactive application of the transition language so that it would be applying the limit of three consecutive four-year terms to terms that incumbent Councilmembers may have already served. **(See Attachment #1 – Agenda Attachment A – for these documents.)**

Commissioner Lendio asked Deputy Corporation Counsel Kawauchi for clarification regarding the Committee gets to choose between Alternative B-1 the first or second and Alternative B-2 depending on the Committee's policy decision. Deputy Corporation Counsel Kawauchi responded in the affirmative. Commissioner Lendio then asked Deputy Corporation Counsel Kawauchi with regard to the two Alternative B-1s, would she suggest that the second Alternative B-1 is clearer than the first Alternative B-1 and the Council is deciding between the two alternatives.

Commissioner Lendio asked Researcher Nikki Love to do that research and make a calculation under the scenario of Alternative B-2 and how that would affect each Councilmember in odd versus even numbered districts. Researcher Nikki Love passed out a worksheet that Commissioner Lendio asked her to prepare. **(Attachment #2)** Commissioner Lendio asked Researcher Nikki Love to explain in Proposal 55 B-1 what her research conclusions were in looking at the language proposed by Corporation Counsel. Researcher Nikki Love stated that in Alternative B-1 in 2010 everyone would get three more terms and because of how it works out with staggering and when someone was elected initially there could be a range from 16 year to 20 years max time in office. Commissioner Lendio clarified in Proposal B-1 which is prospective application in 2010 when reapportionment occurs, it's a clean slate and everyone in all districts can run for three more terms? Researcher Nikki Love responded in the affirmative. Researcher Love went on to explain in Alternative B-2 there are three possibilities. If they are in the odd district, they get the two-year term from 2008 to 2010 and they get three more as of 2010. If they are in the even district and they were first elected in 2002 they get one more term at 2010. If they were in the even district and were newly elected in 2006, they would get two more terms at 2010. The range there would be 12 years to 20 years in office depending on their district and when they were elected. Commissioner Lendio clarified if they are in an odd district they could serve between 18-20 years total.

If they are in an even district in this scenario they only get 12 years and there's a disparity of about 6 years maximum between the odd and even number district for those council members presently in office. Researcher Love responded yes. Commissioner Lendio commented there is three different categories depending on what year a council member initially ran for office and asked Researcher Love if that was correct. Researcher Love responded yes.

Commissioner Mikulina asked looking at Alternative B-2 (Retroactive) the max would be whatever the current max is going in for them so it would be two or three terms? Commissioner Lendio responded depends on what district they are in. Commissioner Mikulina then clarified it would be 12 years and not the 16 – 20 year range for prospective. Commissioner Lendio responded they would be penalized if they ran before and there wouldn't be the clean slate in 2010 where everyone would have equal opportunity. She went on to say they would be penalized and docked whatever they had run before against whatever they could run in the future. She stated it's different between the odd and the even as to what they are docked for so the application of years would be different depending on what district they are from. Researcher Love reiterated because of the two-year short term that's why they get the three extra terms for the odd districts and that's what makes it different in the Alternative B-2 because it's not consecutive terms anymore.

Commissioner Tom asked Researcher Love if the unevenness is because they are eliminating the staggering of terms on Alternative B-2? Researcher Love responded she thinks so, and they are talking about consecutive four-year terms.

Commissioner Takaki asked Corporation Counsel to explain the difference in the first
Al
re
se
m
uchi
ast

interim time looked at Alternative B-1 and suggested to put in the word "thereafter". Chair Kawashima asked Corporation Counsel if it was their opinion that the second Alternative B-1 was clearer than the first? Deputy Corporation Counsel Kawauchi responded in the affirmative. Commissioner Lendio suggested that the Committee should take the three votes before them separately. The three questions are first Alternative A, second would be the first Alternative B-1 or the second Alternative B-1, and the third vote would be if they would like prospective or retroactive application on Alternative B-2. Commissioner Lendio asked Corporation Counsel if they also see three separate sub issues? Deputy Corporation Counsel Kawauchi responded she does but also interjected the concern the Committee had about the retroactive application between the odd and even districts could be perhaps be addressed by no longer counting the terms served but maybe the years served in an effort to try to even out the number of years that an incumbent can serve. Commissioner Lendio then asked Deputy Corporation Counsel Kawauchi since she's been saying through the entire duration of the Charter Commission if she thinks that was the intent of the Commission when they voted on that. Commissioner Lendio stated she believes they only focused on three terms and not the total number of years in their discussions coming up to this point. Deputy Corporation Counsel Kawauchi clarified she was addressing herself to the transition clause only. Commissioner Lendio stated her concern is are they bringing up

something totally different now at this point in the procedure which has not have been fully noticed to the public with regards to the total number of years versus two versus three consecutive terms. She went on to say they've been focusing on the consecutive terms and not the total number of years and asked for Corporation Counsel's opinion. Deputy Corporation Counsel Kawauchi responded she thinks it's an issue that needs to be addressed by the Committee on Style, how the transition is going to be implemented to get to the point of eliminating staggering of terms and either eliminating term limits or starting the counting of three consecutive terms and that's why there is the prospective or retroactive issue at all. Commissioner Lendio followed up by asking Corporation Counsel if they would like the opportunity to give the Committee their prospective the total number of years scenario versus a consecutive terms scenario in terms of giving the Commission at this point options to make that determination. Commissioner Lendio then asked procedurally would they be running afoul of what they are intending to do by bringing that up at this point in time. Deputy Corporation Counsel Kawauchi responded to Commissioner Lendio second question she thinks not because she thinks this Committee on Style needs to address the question of the transition of how that is going to be done and thinks that's why they have the question of prospective versus retroactive. Commissioner Lendio went back to her first question and asked Deputy Corporation Counsel Kawauchi if she would like the opportunity to make a determination and calculation as to what the total number of years would be and how that would affect even versus odd numbers. She stated she had Researcher Love do the research and math but she wants to make sure that everyone is confident of what it really is and what Corporation Counsel's recommendation is going to be. Deputy Corporation Counsel Kawauchi responded the comment of Corporation Counsel was to address what she perceived to be a potential issue by the Commission, that if they were to adopt a transition clause that would allow for a great diversion in total number of years that could be served in a transition clause. She went on to say then is it this Committee's desire to try to address that inequity by some other means to ensure that the transition clause for those incumbent Councilmembers would be in an effort to be equal. She doesn't think they can be because of the problem of the staggering of terms and the effort to try and eliminate the staggering at one point in time, she thinks they would have ultimately have a two year difference at the best. Commissioner Lendio clarified that's better than the 6 years or 8 years that are presently in the academic exercise of calculating we have at the present time. Deputy Corporation Counsel Kawauchi responded if it's a concern for the Committee she would agree. Commissioner Lendio asked Corporation Counsel if that would require a total different type of language than the term "consecutive terms" and would have to consider alternative language with regards to total number of years. Deputy Corporation Counsel Kawauchi responded she doesn't think it would be a major revision but does agree the Committee should have language before them before they consider that. Commissioner Lendio clarified if they use the current language before them it would be a policy decision on the Committee to make a determination on whether or not they wanted the way it is now or if they want to consider alternative language which consider the maximum number of years. Deputy Corporation Counsel Kawauchi responded she would agree.

Commissioner Lendio commented she thinks Corporation Counsel agrees there are three separate votes and recommends to do the votes they can do and make a determination whether or not they want retroactive/prospective application of Alternative B-2 at the end of their deliberation on Proposal 55.

Commissioner Mikulina recommended getting the retroactive/prospective out of the way first before they deliberate Alternative B-1 and Alternative B-2.

Chair Kawashima stated they would vote and discuss the prospective/retroactive first.

ACTION:

First motion: Commissioner Lendio moved to approve Alternative B-1 with the language proposed by the Corporation Counsel for prospective application for Proposal 55. Commissioner Pacopac seconded that motion. Discussion followed.

Commissioner Mikulina was in favor of retroactive application. He stated they are creating somewhat of a loophole that incumbents who are in office now expect term limits and are there for two terms and they are done. He went on to say should voters select this second Alternative they would be there for three terms and they would be done but with allowing this prospectively they are creating this time space continuum where people would get 5 terms even though at no point and time did they allow 5 terms explicitly. They either allowed two terms, transitioned to allow three terms. He stated he's more comfortable with retroactive application.

Commissioner Lendio stated unless they specifically vote for retroactive application it would be prospective so this is a policy decision they are making at this point. She went on to say her personal opinion is that no one should be penalized by a law they didn't know would exist in the future and a law should be prospective unless there is a compelling reason why there should be retroactive application such as to avoid severe wrongdoing, injustice, prejudice to people and therefore she would be voting affirmatively unless there is a compelling reason all laws which we never know are going to be passed in the future should have prospective application and not retroactive. She stated she's concerned of the practical application of the retroactive language because there is such a great disparity in its application as it is written now between odd and even districts.

Chair Kawashima stated he would be voting in support of the motion as Commissioner Lendio has stated the points eloquently and agrees with what she has stated.

AYES: KAWASHIMA, TAKAKI, LENDIO, PACOPAC, TOM - 5
NOES: MIKULINA - 1
EXCUSED: COFFEE - 1

FIRST MOTION PASSED

Second Motion: Commissioner Lendio moved to approve the language proposed by Corporation Counsel for Proposal 55 Alternative A. Commissioner Pacopac seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, LENDIO, MIKULINA, PACOPAC, TOM - 6
NOES: NONE - 0
EXCUSED: COFFEE - 1

SECOND MOTION PASSED

Third Motion: Commissioner Lendio moved to approve Proposal 55 second Alternative B-1 which inserts the word "thereafter" for prospective application. Commissioner Pacopac seconded that motion. Deputy Corporation Counsel Kawauchi asked to correct the typographical error in paragraph four fourth sentence delete the word "shall" after the word "thereafter". Commissioner Lendio stated she is adding that request as part of her motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, LENDIO, MIKULINA, PACOPAC, TOM - 6
NOES: NONE - 0
EXCUSED: COFFEE - 1

THIRD MOTION PASSED

Executive Administrator Narikiyo asked Chair Kawashima for a 5-minute recess to pass out materials. Commissioner Lendio moved for a five-minute recess. Commissioner Takaki seconded that motion.

RECESS – 4:52p.m.
RECONVENE – 5:00p.m.

PROPOSAL 71 - Department of Environmental Services; Comprehensive curbside recycling program.

The following individuals testified:
NONE

Written testimony:
NONE

Deputy Corporation Counsel Sunakoda stated they had provided packets to the Committee members which contained a compilation of some of the research they did follow-up to the Commission's request to conduct additional research regarding possible alternative language with respect to Corporation Counsel's concern with the use of the word "comprehensive" in "Subsection E." She went on to say as indicated previously the Corporation Counsel's concern expressed to the Commission was with respect to the term "comprehensive" and they surveyed other jurisdictions and they were unable to locate in other jurisdictions in which the ordinances or the statute the jurisdictions had utilized that term. Deputy Corporation Counsel Sunakoda reported there were a few instances in a minority of cases where they found the term used but they were used more in the general policy content with respect to state statutes and it was used in two or

three states. She stated in other jurisdictions, municipalities and counties they simply referred to any type of recycling mandate or policy as simply recycling program, recycling system without any modifiers. She clarified the concern the term “comprehensive” is problematic from a legal standpoint. It is very general and vague and subject to interpretation and could invite litigation against the city and the way it’s currently worded serves to establish or impose a mandate upon the Director of Environmental Services. Deputy Corporation Counsel Sunakoda stated during their research there was a case they found and included with the background materials where a lawsuit was filed against the Mayor of Delaware with respect to language that was similar to what was proposed and it was more general. She stated including the term “comprehensive” in this case would be problematic.

Commissioner Kawashima asked Deputy Corporation Counsel Sunakoda if she could tell them if the plaintiff prevailed or what had happened in that case. Deputy Corporation Counsel Sunakoda responded in that particular case, it is somewhat distinguishable from the situation the Commission has and that the court looked to the intent and there was an additional statutory provision that the city argued was relevant because that provision provided that the administration could take into fiscal consideration when implementing or carrying out its mandate to administer the recycling program. She clarified in that respect it is different because there is no similar provision here and they determined that the language should be as a general matter for purposes of the charter and that any attempt to include that type of language or provision addressing any fiscal consideration or condition should be included in ordinance. Deputy Corporation Counsel commented the concern is the case highlights the fact that litigation is not a remote possibility and the language as it’s worded could tend to invite litigation and could subject the city to liability.

City Clerk: the
m she
h:

Counsel Sunakoda responded with respect to “all inclusive” they would have the same concern with that language also. She went on to say to give the Commission an alternative, although they did not find this language in any of the other ordinances or cases they looked at, the Commission may want to consider to delete the term “comprehensive” and add the words “as established by law” after the words recycling system. This would be consistent with whatever is currently provided by ordinance with the definition of recyclable materials. Chair Kawashima clarified their recommendation was to delete the word “comprehensive”? Deputy Corporation Counsel Sunakoda responded yes and as an alternative to do a blanket deletion of “comprehensive” and determined if they add the language “as established by law”. This could probably address whatever concerns Commissioner Mikulina has with the deletion of the word “comprehensive” because the current City Ordinances do contain a definition of what recyclable materials entail or encompasses. She stated she wasn’t sure if the concern was with respect of the contents of the material to be recycled and that not being defined and that being the reason for the inclusion of the term “comprehensive”. Commissioner Tom clarified he does share the same concern with Commissioner Mikulina. Commissioner Tom suggested what if they used the term “prospective recyclable materials.” Commissioner Lendio commented she doesn’t think that’s definable either.

Commissioner Myers asked Corporation Counsel if there were any prescribed by law currently? Deputy Corporation Counsel Sunakoda responded there is an ordinance that defines recyclable materials and there is a reference to the City's pilot recycling program. Commissioner Myers clarified there is an existing ordinance? Deputy Corporation Counsel Sunakoda responded in the affirmative. Commissioner Myers then clarified if the proposal is passed it would refer to that ordinance. Deputy Corporation Counsel Sunakoda responded in the affirmative. Commissioner Lendio asked if they passed the language with "comprehensive" and the City Council discussed how to now implement the particular provision within the charter and they define the word "comprehensive", would that be clear under the law? Deputy Corporation Counsel Sunakoda responded yes. There would be litigation if an interest group didn't agree with the definition but if the interest group agreed, whatever the City Council defined "comprehensive" as in the enabling legislation everyone would be on the same page. Deputy Corporation Counsel Sunakoda responded yes if that would happen. Commissioner Lendio stated she doesn't have a problem with the word "comprehensive". She went on to say it's intentionally vague and thinks they can express their intent in the Charter Commission as to making a determination that they feel is over inclusive rather than under inclusive. She commented the department has testified to what its stand is and thinks the Charter Commission has made a stand that it does not agree with the department and how its implementing the current curbside recycling program. Commissioner Lendio stated she thinks there is enough for a court to consider if it should ever reach that point as to what the intent of what the Charter Commission is but should the City Council come in and define what comprehensive is, would be more of a definitive statement in terms of a court looking at what that term means. Commissioner Lendio asked Corporation Counsel if they would agree with her legal analysis? Deputy Corporation Counsel Sunakoda responded if they are seeking to what the intent of what the Charter Commission is that's different from (inaudible). Commissioner Lendio stated the court would consider all of it. Deputy Corporation Counsel responded legally if the language was determined to be vague and ambiguous then the court would look at the intent.

Deputy Corporation Counsel Spurlin asked if it was clear from Commissioner Lendio's understanding that the Charter Commission has expressed their intent or understanding of what they mean by "comprehensive". Commissioner Lendio stated she thinks there's a clear rejection of what the department is doing at this point which lead the Commission to almost unanimous adoption of this provision with the word "comprehensive". Deputy Corporation Counsel Spurlin commented she's struggling whether or not the Charter Commission has sufficiently expressed what they believe "comprehensive" means. Commissioner Lendio responded she thinks there's enough for a court to consider.

Commissioner Takaki asked Commissioner Mikulina how he would describe "comprehensive". Commissioner Mikulina responded maybe multi-material so it's more than green waste but feels "comprehensive" is perfectly fine. He gave examples of other cities recycling programs and found an editorial in the Honolulu Advertiser that talked about a "comprehensive" recycling program. Their definition was going beyond collecting green waste and collecting inorganic things such as plastic, glass and paper. He noted in the Sierra Club they pretty much push forward those materials and they calculated about 42% is inorganic material mostly glass plastic and paper.

ACTION:

Commissioner Lendio moved to approve the language of Proposal 71 with the word comprehensive. Commissioner Tom seconded that motion. Discussion followed.

Commissioner Lendio she does not have a problem with the word “comprehensive”. She went on to say she’s sure an interest group would exercise a lot of discretion before filing a lawsuit against the director of the department and would work with the City Council and the enabling legislation to make a determination of what “comprehensive” means, whether it means various multi-materials or island-wide or just in Mililani as a pilot program.

Commissioner Pacopac stated he agrees with Corporation Counsel that there may be problems and would be voting against this proposal.

Commissioner Tom stated that if this motion passes they are reconfirming the intent of what the Commission means by comprehensive. That it is multi material and island wide and not just green waste or a conversion of trash to electricity. He feels this is important to pass this would reconfirm the intent.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO, TOM - 5
NOES: PACOPAC - 1
EXCUSED: COFFEE – 1

MOTION PASSED

PROPOSAL 75 – Ethics Commission; Include the prohibition against Ethics Commissioners taking an active part in political management or political campaigns set forth in the Hawaii Constitution Article XIV.

The following individuals testified:

1. Tom Heinrich

Written testimony:

NONE

Mr. Heinrich testified in support of the new language proposed for Proposal 75.

ACTION:

Commissioner Lendio moved to approve the text in Proposal 75 as proposed by Corporation Counsel and Mr. Heinrich. Commissioner Mikulina seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO, PACOPAC, TOM - 6
NOES: NONE
EXCUSED: COFFEE – 1

MOTION PASSED

PROPOSAL 76 – Police; Delete prohibition of political activities by police department employees.

The following individuals testified:
NONE

Written testimony:
NONE

PROPOSAL 78 – Civil Defense Agency; Delete the reference to Civil Defense Agency in "Appointment, Confirmation and Removal of Officers and Employees".

The following individuals testified:
NONE

Written testimony:
NONE

PROPOSAL 91 - Property Taxes and New Fund; Set aside one-half percent (1/2%) of real property tax revenues for land and natural resources protection and one-half percent (1/2%) of real property tax revenues for affordable housing.

The following individuals testified:
1. Tom Heinrich

Written testimony:
NONE

Tom Heinrich testified he has two comments on Proposal 91 version 1. He noted the appropriate drafting style in several different places, when there's a statement of percentage and then set forth in parentheses, it's great visually but not preferred by the drafting manual. He stated in those places such as paragraph one, the (1%) should be either stated in words or removed, unfortunately he likes it visually but by the drafting manual that's inappropriate. Mr. Heinrich stated the second change is a matter of style. Subsection 7, second sentence after the word substitute add the word "for" or delete the word substitute and add the phrase "be in substitution of", which he doesn't care for. He goes on to say the appropriate connector there in that sentence is the word "for".

Deputy Corporation Counsel Kawauchi commented as to version 1. She stated with respect to paragraph 4 the original language first clause talked about monies in the fund

being used for bonds issued subsequent to the amendment. She went on to say the last clause repeated the phrase bonds issued subsequent to and asked the Commission's and Committee on Style's clarification on what the intention is. She stated if the intention is that the last clause refer to bonds issued subsequent to enactment of this section, she thinks the entire sentence needs to be deleted because it repeats what has been said earlier in the paragraph. But if the intention is to use the money in the fund for bonds issued before or after than it should be corrected to conform to the Committee and Commission's desire.

Commissioner Mikulina stated it's his understanding and looked at the past minutes that they wanted to make sure they were not paying off existing bonds and wanted it to state as soon they passed this and subsequent bonds that are used for this purpose can be paid off. He clarified he thought that's what the Commission understood based on the minutes. Commissioner Tom stated he agrees with Commissioner Mikulina and thinks what Corporation Counsel is saying is that this is redundant in that sentence because it's stated earlier in that paragraph. Commissioner Mikulina stated the sentence above that refers to Section 3-116 and 3-117 would be clearer if it said, bonds issued subsequent to enactment of this proposal or this section and pursuant to Section 3-116 and 3-117. Deputy Corporation Counsel Kawauchi responded that could be added for clarification and delete the last sentence of that paragraph. Commissioner Tom asked Corporation Counsel what would they recommend? Deputy Corporation Counsel Kawauchi responded "this section."

Deputy Corporation Counsel Kawauchi explained version two of Proposal 91. She stated this version was a result from discussions she had with the Department of Budget and Fiscal Services and understands that there will be implementation problems with depositing the total monies every year into one fund, although it's not a problem the first year but it would be a problem thereafter. She clarified it's an accounting problem and that at any moment and time you wouldn't know how much money is in the fund for affordable housing and how much is in the fund for natural resource conservation. She went on to say the department requested to do two distinct funds for implementation purposes and version two does that and in an effort not to substantively change the proposal.

Commissioner Myers stated he doesn't know what is the intent of the 5% used for administrative expenses under subsection 5. He stated that is very different if people were thinking of using 5% of the funds incoming each year as administrative expenses but if it's of the total of the fund for example \$1M was carried over from one year to the next, that base of \$1M could be used to determine the 5% two years in a row and would be using the same \$1M. He thought the intent was if the fund brought in \$3M a year no more than 5% of that total would be used for administrative expenses.

Commissioner Mikulina also asked Corporation Counsel if there are other funds that have limitations on administrative expenses like this and do they refer to the aggregate or the annual input? Deputy Corporation Counsel Kawauchi responded she doesn't know.

Commissioner Lendio asked Commissioner Tom if the Hanauma Bay had any type of restrictions in regards to administrative expenses. Commissioner Tom responded he

does not remember. She asked if that was dealt within the ordinance in terms of enabling legislation or was that a budgetary issue that the City Council considers? Deputy Corporation Counsel Spurlin responded she doesn't remember. Commissioner Lendio commented there are administrative expenses attendant to Hanauma Bay and that must be calculated and there's a nexus determined between the admission fee fund and the administrative expenses. Deputy Corporation Counsel Spurlin stated she thinks the ordinance just delineated which parks and activities they could use it for. She went on to say she doesn't remember discussing administrative expenses. Commissioner Lendio clarified that the total number of the fund was determined but not whether or not the administrative expenses should be paid. Commissioner Lendio stated under the law and under the rule by the court there has to be a nexus between the administrative expenses and the amount of the admission fee. Deputy Corporation Counsel Spurlin agreed. Commissioner Lendio went on to say that that would be considered by the City Council in determining what the admission fee was in the budgetary scheme of things and what was in the fund. Deputy Corporation Counsel Spurlin responded she doesn't know if that was considered by Council when they had established the admission fee. Commissioner Lendio commented her memory was there were no restrictions in the Hanauma Bay enabling legislation as to dedication of a certain percentage of administrative expenses.

Commissioner Tom commented the way it is phrased is fine because usually this refers to what the city refers to as case common administrative charges which are usually based on the revenues of the fund which would be what's appropriated versus what is carried forward. He went on to say it's generally the practice and suggested that they follow the general practice of the City. He stated if the City doesn't follow their general practice, someone could file a lawsuit. Commissioner Lendio added there has been a lawsuit against Hanauma Bay because they felt the admission fee was not related to the actual administrative expenses of the bay.

Commissioner Mikulina agrees that version two accomplishes the same thing and reads a little cleaner and would be more manageable where they would have two separate funds.

Commissioner Lendio asked Corporation Counsel which version would they prefer? Deputy Corporation Counsel Kawauchi responded version two. Commissioner Lendio clarified to include the changes they have made with regards to version one? Deputy Corporation Counsel Kawauchi responded in the affirmative.

Commissioner Takaki asked Commissioner Mikulina if he had any objections to the written testimony from the Department of Parks and Recreation. Commissioner Mikulina responded yes he does have objections. He stated the purpose for the creation of the land conservation fund is explicitly to give the city capital and funding to protect these places before it's too late. He went on to say they deal with staffing and maintenance through the regular budget process. Commissioner Tom stated that it was proposed that maintenance of the lands be an allowable use of the funds and the Commission voted to strike the word maintenance, so if they were to include that now they would be going against what the Commission stated as a policy basically for this proposal.

Commissioner Lendio stated as a policy matter is against the recommendation and

would not want to put this into the language.

Executive Administrator Narikiyo noted for the record as with the Liquor Commission and others as a courtesy a copy of the agenda was sent the office of Trust for Public Land with the latest proposed language from Corporation Counsel just in case they had any comments but have received none.

Chair Kawashima asked Corporation Counsel to address Mr. Heinrich's comments from his oral testimony. Deputy Corporation Counsel Kawashima responded she would agree with the numeric percentages. Chair Kawashima asked Corporation Counsel about the suggestion to add the word "for" to paragraph 7 if they were okay with his suggestion? Deputy Corporation Counsel Kawauchi responded she understands the Committee's desire would be to delete the last sentence of paragraph four.

ACTION:

Commissioner Lendio moved to approve the version two of Proposal 91 with the changes proposed by Mr. Heinrich, the changes to paragraph four with the phrase **after enactment "of this section"** in the third line and deletion of the last sentence, and addition of the word **"for"** after the word "substitute" in paragraph 7. Commissioner Mikulina seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO, PACOPAC, TOM - 6
NOES: NONE
EXCUSED: COFFEE - 1

MOTION PASSED

PROPOSAL S-6 - Petitions; Delete requirement of Social Security numbers on petitions.

The following individuals testified:
NONE

Written testimony:
NONE

Chair Kawashima reminded the Committee Mr. Heinrich suggested a change to a typographical error of the word "resident" and changed it to "residence".

ACTION:

Commissioner Lendio moved to approve Proposal S-6 with Mr. Heinrich's changes. Commissioner Mikulina seconded that motion. No discussion followed.

Commissioner Takaki asked Corporation Counsel if this proposal could be considered a housekeeping amendment? Corporation Counsel responded yes.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO, PACOPAC, TOM - 6
NOES: NONE
EXCUSED: COFFEE - 1

MOTION PASSED

PROPOSAL S-9 - Department of Transportation Services - Revise Powers, Duties and Functions; Promote pedestrian- and bicycle-friendly city

The following individuals testified:

NONE

Written testimony:

NONE

Deputy Corporation Counsel Sunakoda responded they had earlier reported to the Commission they had legal concerns with using the term “priority” on the grounds it was vague and ambiguous. They also had expressed concerns on the interpretation and ambiguity in the term “pedestrian- and bicycle-friendly city” and the Commission had asked the Corporation Counsel to survey and research other jurisdictions to see if there was possibly alternative language that would address those concerns. She went on to say although their search indicated synonymous references that could be included there were some that were not. She said that the City and County of Honolulu would like to see what that is a primary mode of transportation for the City and County of Honolulu would be for pedestrian use and bikeway use. She goes on to say if that is over generalizing the intent, they stand corrected but that was their concern that the language as worded would imply or communicate that the primary mode for transportation for the City should be and the Director of Transportation Services would be required to insure that the primary mode of transportation would be for pedestrian use and bikeway use because of the term “priority”. She commented if there were any clarification that Commissioner Mikulina could provide they could respond or address.

Chair Kawashima addressed the pedestrian- and bicycle-friendly phrase first. He asked Corporation Counsel if they were able to review Researcher Nikki Love’s memo regarding that. Deputy Corporation Counsel Sunakoda responded yes and in terms of alternative wording they contemplated to the Committee on Style to delete “it shall be a priority” to read, “The department of transportation services shall promote and encourage the inclusion of pedestrian areas and bikeways in the city.” Chair Kawashima clarified “pedestrian areas and bikeways”? Deputy Corporation Counsel Sunakoda responded yes. Commissioner Lendio asked Corporation Counsel wouldn’t “promote and encourage” change the intent of what “priority” means and if they feel “promote and

encourage” would be analogous to “priority”? Deputy Corporation Counsel Sunakoda responded they don’t disagree with that but their concern is that “priority” is undefined.

Commissioner Mikulina clarified he contemplated that “it shall be a priority” among the many competing priorities the department contends with. He went on to say it could have been phrased to say, “it shall be the priority” in which case their analysis holds that it would be the one and only priority. He stated by saying “a priority” it’s one of the many competing priorities that that department has to juggle. Commissioner Mikulina stated he would not want to amend it in any other way because anyone could argue that the city is providing bike lanes, they are encouraging bicycle use by putting the bike racks on the street. He went on to say the public testimony received on this issue of how we are failing to be a friendly community towards bikes and pedestrian and we are at the top of the list for fatalities for bikes and pedestrians. Commissioner Mikulina stated this proposal would be a step in the right direction and give guidance to the department to consider in their decision-making and everyday activities.

Chair Kawashima asked Commissioner Mikulina to address the “pedestrian-and-bicycle friendly”. Chair Kawashima reiterated Corporation Counsel has recommended “pedestrian areas and bike ways” versus “pedestrian-and-bicycle friendly”. Commissioner Mikulina responded there are pedestrian ways island wide and there are some bikeways too and the meaning of them not just doing paths but doing everything that cities do to make it a place where parents are comfortable letting the children’s ride their bike without fear of their children getting hurt. It leaves it vague in what those things might be as the rest of the charter does but this gives more direction that the goal shall be a priority for them to make this place “bicycle- and pedestrian- friendly.”

Deputy Corporation Counsel Sunakoda commented they understand what Commissioner Mikulina and Commissioner Lendio is saying with respect to the intent and wanted to gain some clarification and the concern with the use of “priority” is based purely a legal concern about possible litigation it may generate based upon how it may be interpreted.

Commissioner Tom stated he agrees with Commissioner Mikulina being less concerned about the use of “priority” because it says “a priority” versus “the priority”. He asked Commissioner Mikulina in Researcher Love’s research memo she had on suggestion, “preserve, protect and promote walking and bicycling”. Commissioner Tom asked Commissioner Mikulina if that would help address the vagueness of “pedestrian- and bicycle-friendly city.” Commissioner Mikulina responded he would prefer “pedestrian-and bicycle-friendly city” because he was defining the goal as opposed to defining the “how to”.

Commissioner Pacopac asked Corporation Counsel instead of saying “a priority” could they say “one of the priorities” to be clear? Deputy Corporation Counsel Sunakoda responded in the affirmative.

Commissioner Mikulina asked for clarification when developing the ballot question, can they define the reasoning on the question or the digest where they talk about the proposals comprehensively. He stated he would prefer the proposal as is. Commissioner Lendio commented they as they Committee needs to decide what they

need to recommend to the full Commission what they feel the language should be and they can work with the Committee on Submission and Information of what the digest should say. She stated she thinks there needs to be a policy decision on what the language should be in terms of recommending to the full Charter Commission.

ACTION:

First motion: Commissioner Mikulina moved to approve the language as is. Commissioner Lendio seconded that motion. Discussion followed.

Commissioner Lendio stated she agrees with Corporation Counsel and has a problem with the language with this particular proposal but to the extent to the majority of the Commission has spoken and would like to see this move onto the ballot she would be supporting the motion.

Commissioner Takaki stated he would prefer to use the language Commissioner Pacopac suggested as "one of the priorities".

Commissioner Pacopac stated if the Committee can go to the Committee on Submission and Information to get "priority" clarified, he feels the proposal would be okay.

Commissioner Takaki clarified that Corporation Counsel would prefer the Committee make the change now and asked for their opinion. Deputy Corporation Counsel Sunakoda responded she believes that would make the language of the proposed amendment clearer.

Commissioner Lendio stated procedurally Commissioner Mikulina could take that as a friendly amendment or not.

Commissioner Mikulina did not take it as a friendly amendment and Commissioner Takaki made a second motion.

Second motion:

Commissioner Takaki moved to amend the motion to insert the language to say "one of the priorities." Commissioner Lendio seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, LENDIO, PACOPAC - 4
NOES: MIKULINA, TOM - 2
EXCUSED: COFFEE - 1

SECOND MOTION PASSED

First motion: As amended.

AYES: KAWASHIMA, TAKAKI, LENDIO, MIKULINA, PACOPAC, TOM - 6
NOES: NONE

EXCUSED: COFFEE - 1

FIRST MOTION PASSED WITH AMENDMENT

PROPOSAL S-10 - Public notices; Distribution of public notices via a widely accessible electronic medium.

The following individuals testified:

1. Tom Heinrich

Written testimony:

NONE

Tom Heinrich suggested in subsection two to replace the phrase “(e.g. the city website)” with “on the city’s internet website and”. The second suggested alternative was using the same phrase he just stated but reordering the statement in subsection two such that the first reference is to the daily newspaper, then the internet, and thirdly the last clause which already exist in the charter refers to “and may be advertised, etc.” He stated it seems that the priority is the in print publication of the notice and then the “via a widely accessible electronic medium (e.g. the city website)”. He goes on to say if it’s placed on the City’s website which he strongly agrees it should be, it still places the initiative on the individual citizen to access the website otherwise the notice requirement of the city is to publish it in the daily newspaper for circulation.

Discontinue the
with HRS Provision 1-28.5 regarding Publication of notice that provides the requirements for county wide publication by publication in a daily or weekly publication in the affected counties. Deputy Corporation Counsel Sunakoda stated there are two issues they wanted to address to the Committee on Style. First she advised the Commission earlier with respect to their concern of “widely accessible” reference. She stated she did attempt to find language that would provide an alternative for the Committee on Style’s consideration and did not find in other jurisdiction the use of the word “widely accessible” as utilized and proposed in this context. She goes on to say they recommend to delete “widely accessible” and replace with the word “and”. Their other concern is the parenthetical e.g. the city website. Deputy Corporation Counsel reported what they had found in the interim, subsequent to their report to the Commission is HRS 1-28.5 contains an ambiguity with respect to additional supplemental notice that may be provided by either the State or the County and the statute as referenced HRS 1-28.5 is the same statutory provision she mentioned earlier with respect to the reordering issue that was brought up by Mr. Heinrich. She went on to say this is the same provision that is presenting an issue with respect to the additional supplemental notice that can be given because this essentially what this proposed amendment would do is to establish a supplemental form of notice. She stated there is language in HRS 1-28.5 that reads, “additional supplemental notice may also be given through Hawaii FYI, the State’s

interactive computer system". In addition to that in the beginning of the statutory provision that says, "notwithstanding any other statute law, charter provision, ordinance or rules to the contrary, whenever a government agency is required to give public notice or publish notice, the notice shall be give only as follows and proceeds to read, "for countywide publication, publication shall be daily or weekly publication in the affected county." And then again it reads, "additional supplemental notice may also be given through Hawaii FYI, the State's interactive website". Deputy Corporation Counsel Sunakoda stated because it is so specific as to the supplemental notice and because it's unclear as to whether that precludes any other notice via City's website for example, they recommend to delete the specific reference to the City's internet website. Commissioner Lendio asked Corporation Counsel if there was a link to the City's website from the State's website. Deputy Corporation Counsel Sunakoda responded yes. Commissioner Lendio asked Corporation Counsel if there's a link to the City's website from the State's website would that meet the requirement of the statute? Deputy Corporation Counsel Sunakoda responded she understands what Commissioner Lendio is saying but she doesn't know. Commissioner Tom commented that Deputy Corporation Counsel Sunakoda stated the e.g. City's website is too narrow because that would eliminate the State's FYI and so they need to include the State's FYI or make it broader.

Commissioner Tom suggest to delete "via a widely accessible electronic medium" and insert "an electronic medium available to the public" after communications media and asked Corporation Counsel if that would be appropriate. Deputy Corporation Counsel Sunakoda replied that would be fine. Commissioner Tom clarified that Mr. Heinrich's testimony suggest that they prioritize newspapers first, then other newspapers and communications media and then insert "an electronic medium". Deputy Corporation Counsel Sunakoda responded that would be fine.

ACTION:

Commissioner Mikulina moved to amend Proposal S-10 as follows:

"Section 13-1____. Public Notices via Electronic Medium. Whenever a public notice is required by this charter or by ordinance to be published in a daily newspaper, the public notice shall also be distributed via an electronic medium, such as the internet, within the same timeframe as the newspaper publication." Section 13-106 would have the identical language as Section 13-1____, the new language would be "via an electronic medium, such as the internet and". Commissioner Lendio seconded that motion. No discussion followed.

AYES: KAWASHIMA, TAKAKI, MIKULINA, LENDIO, PACOPAC, TOM - 6
NOES: NONE
EXCUSED: COFFEE - 1

MOTION PASSED

Chair Kawashima asked to take a short recess. Commissioner Lendio moved to take a recess. Commissioner Pacopac seconded that motion.

RECESS – 6:16 p.m.
RECONVENE – 6:19 p.m.

The Committee returned to Proposal 1.

PROPOSAL 1 - Salary Commission; Amend provision regarding Council review of Commission findings.

Deputy Corporation Counsel Kawauchi reviewed testimony received from Police Chief Boisse Correa and stated she is inclined to recommend that no revisions be made to the form of the proposal as adopted by the Charter Commission.

Executive Administrator Narikiyo stated during the break there was a discussion of recessing the meeting and reconvening next week Tuesday at 4:00 p.m. to complete the agenda. He stated he spoke to OIP this morning to clarify if another agenda needed to be filed again and was informally advised that the Committee would not have to and they have fulfilled the requirements by filing the agenda for this meeting 6 days in advance as required by Sunshine Law and it is permissible to announce that the Committee would be recessing and reconvening. He went on to say as a courtesy they would be giving notice of the reconvening to their distribution list and posting on the website.

Chair Kawashima asked for a motion to recess. Commissioner Lendio moved for recess. Commissioner Pacopac seconded that motion. The Committee on Style recessed July 19, 2006 at 6:25p.m.

The Committee on Style will reconvene on Tuesday, July 25, 2006 at 4:00p.m. in the City Council Committee Room.

4. Combination of Proposed Charter Amendments for Purposes of the Ballot

5. Wording of Ballot Questions

6. Order of Questions on the Ballot

7. Announcements

8. Next Meeting

9. Adjournment

ATTACHMENT A
STYLE COMMITTEE MEETING 7-19-06

Proposed revisions to Ramseyered text:

- Proposal 27
- Proposal 28
- Proposal 33
- Proposal 36
- Proposal 55 Alternative A
- Proposal 55 Alternative B-1, Version 1
- Proposal 55 Alternative B-1, Version 2
- Proposal 55 Alternative B-2
- Proposal 75
- Proposal 91, Version 1
- Proposal 91, Version 2

PROPOSAL NO. 27, LIQUOR COMMISSION

- I. RCH Section 6-207. “Liquor Commission –“ (new text underlined) (to take effect July 1, 2007)

The organization and the duties and functions of the liquor commission of the City and County of Honolulu shall be as provided by law, except that the commission shall be attached to the department of budget and fiscal services. The positions of liquor administrator, deputy liquor administrator, and one secretary, shall be exempt from civil service in accordance with Section 6-1103, and shall be appointed and may be removed in accordance with this section.

The liquor commission shall appoint and may remove a liquor administrator, who shall serve as the administrative head of the commission staff and shall be subject to the policies and directions of the commission.

The liquor administrator may appoint and may remove a deputy liquor administrator who shall serve as the first deputy to the administrator, and may appoint and may remove a secretary in the exempt position.

The liquor administrator may hire and may remove other staff in accordance with applicable law. The salaries of the staff shall be set in accordance with applicable law.

- II. New subsection (k) to RCH Section 6-1103. “Civil Service and Executive Branch Exemptions —“ (to take effect July 1, 2007)

(k) Positions in the liquor commission of the liquor administrator, the deputy liquor administrator, and one secretary, but such positions shall be included in the position classification plan.

- III. New Section 16- _____. “Transition Provisions for Liquor Administrator and Deputy Liquor Administrator —“ (to take effect upon approval)

1. The civil service positions of the liquor administrator and of the deputy liquor administrator of the liquor commission shall be abolished as of the end of the day, June 30, 2007.

2. Effective July 1, 2007, the positions of the liquor administrator and the deputy liquor administrator shall be established in the liquor commission and shall be exempt from civil service.

3. Any employee holding a permanent civil service appointment on June 30, 2007 to the position of the liquor administrator of the liquor commission or to the position of deputy liquor administrator shall be afforded such rights under civil service rules as are applicable to those whose civil service position has been abolished. Nothing

in this section shall be construed as disqualifying such individuals from appointment after June 30, 2007 to the position of liquor administrator or deputy liquor administrator.

4. The liquor commission may select an individual for the exempt civil service position of liquor administrator prior to July 1, 2007, but the appointment to such position shall not take effect until July 1, 2007 or thereafter.

PROPOSAL NO. 28

Section 11-106, Revised Charter of Honolulu, would be amended as follows:

Section 11-106. Penalties and Disciplinary Action for Violations --

The failure to comply with or any violation of the standards of conduct established by this article of the charter or by ordinance shall be grounds for impeachment of elected officers and for the removal from office or from employment of all other officers and employees. The appointing authority may, upon the recommendation of the ethics commission, reprimand, put on probation, demote, suspend or discharge an employee found to have violated the standards of conduct established by this article of the charter or by ordinance. The ethics commission may also impose civil fines established by ordinance for violations of the standards of conduct committed by elected officers of the city.

Section 11-107, Revised Charter of Honolulu, would similarly be amended in the last paragraph as follows:

Section 11-107. Ethics Commission --

* * * *

The commission may impose civil fines established by ordinance against elected officers of the city found to have violated the standards of conduct established by this article of the charter or by ordinance. The commission shall recommend appropriate disciplinary action against officers and employees found to have violated the standards of conduct established by this article of the charter or by ordinance. The appointing authority shall promptly notify the commission of the action taken on the recommendation.

PROPOSAL NO. 33 (ESD) REVISION

Suggested Revision (revised in its entirety):

Section 6-603. Powers, Duties and Functions –

The director of emergency services shall:

(a) As to medical services:

(1) Be the primary provider of emergency medical care;

(2) Develop programs and provide training and educational programs related to emergency medical services and injury prevention.

(3) Be responsible for medical matters relating to public health and welfare.

(b) As to ocean safety:

(1) Be the primary responder to emergencies arising on the beach and in the near shore waters.

(2) Be responsible for ocean safety training, educational and risk reduction programs relating to ocean safety.

(c) Perform such duties as may be required by

law.

PROPOSAL NO. 36 (HFD) REVISION

Suggested Revision:

Section 6-1004. Powers, Duties and Functions –

The fire chief shall:

(a) Perform fire fighting and rescue work in order to save lives, [and] property and the environment from fires [and from emergencies arising on the sea and hazardous terrain].

(b) Respond to emergencies arising on hazardous terrain and on the sea and hazardous material incidents.

(c) Provide emergency medical care.

[b](d) Train, equip, maintain and supervise a force of fire fighting and rescue personnel.

[c](e) Monitor the construction and occupancy standards of buildings for the purposes of fire prevention.

[d](f) Provide educational programs related to fire prevention.

[e](g) Appoint the deputy fire chief and the private secretaries to the fire chief and the deputy fire chief.

[f](h) Perform such other duties as may be required by law.

PROPOSAL NO. 55, ALTERNATIVE A

Eliminate term limits and staggering of council terms.

Section 3-102. Number, Election and Terms of Office of Councilmembers —

The council shall consist of nine members. One member shall be elected from each of the nine districts hereinafter provided. Except as provided in Section [16-122] 16-___, the regular terms of office of councilmembers shall be four years beginning at twelve o'clock meridian on the second day of January following their election. [The terms shall be staggered in accordance with Section 16-122. No person shall be elected to the office of councilmember for more than two consecutive four-year terms.]

Section 13-116. City Elections —

1. In general: City elections shall be conducted in accordance with the election laws of the state insofar as applicable, but all city elective officers shall be elected by nonpartisan special elections. Except as otherwise provided in this charter, such special elections shall be held in conjunction with the primary and general elections of the applicable year. In the case of the council, such special elections shall be held in 2002 and every second year thereafter, and after the 2010 special elections, every fourth year thereafter. In the case of the mayor and the prosecuting attorney, such special elections shall be held every fourth year following the 1992 election.

Repeal Section 16-122 and insert new language:

Section 16- . Transitional Provisions for the Elimination of Councilmembers'

Term Limits and Staggered Terms —

1. Term limits for councilmembers and the staggering of councilmember terms shall end at twelve o'clock meridian on January 2, 2011, and shall be implemented in accordance with this section.

2. A person elected as councilmember to a four-year regular term in 2002 and 2006 in council districts II, IV, VI and VIII shall be eligible for election to a four-year regular term in 2010.

3. A person elected to serve as councilmember for council districts I, III, V, VII or IX in the special elections held in 2008, shall be elected to a two-year regular term commencing on January 2, 2009.

4. After the expiration of the two-year regular term for council districts I, III, V, VII or IX established by this section, the subsequent regular terms of the councilmembers of the odd-numbered council districts shall be subject to Section 3-102.

5. For the special elections held in 2010, councilmembers for all nine council districts shall be elected to four-year regular terms commencing on January 2, 2011, and thereafter shall be eligible for election to the office of councilmember without limit on the number of terms served in the office of councilmember.

PROPOSAL NO. 55, ALTERNATIVE B-1 (Prospective)

Limit council term limits to three consecutive four-year terms and eliminate staggering of council terms.

Section 3-102. Number, Election and Terms of Office of Councilmembers —

The council shall consist of nine members. One member shall be elected from each of the nine districts hereinafter provided. Except as provided in Section [16-122] 16-, the regular terms of office of councilmembers shall be four years beginning at twelve o'clock meridian on the second day of January following their election. [The terms shall be staggered in accordance with Section 16-122.] No person shall be elected to the office of councilmember for more than [two] three consecutive four-year terms.

Section 13-116. City Elections —

1. In general: City elections shall be conducted in accordance with the election laws of the state insofar as applicable, but all city elective officers shall be elected by nonpartisan special elections. Except as otherwise provided in this charter, such special elections shall be held in conjunction with the primary and general elections of the applicable year. In the case of the council, such special elections shall be held in 2002 and every second year thereafter, and after the 2010 special elections, every fourth year thereafter. In the case of the mayor and the prosecuting attorney, such special elections shall be held every fourth year following the 1992 election.

Repeal Section 16-122 and insert as new language:

Section 16- . Transitional Provisions for the Elimination of Councilmembers' Staggered Terms and the Extension of Term Limits From Two to Three Consecutive Terms —

1. The staggering of councilmember terms shall end at twelve o'clock meridian on January 2, 2011, and shall be implemented in accordance with this section. Thereafter, councilmembers for all nine council districts shall be eligible for election to four-year terms commencing on January 2, 2011.

2. The extension of term limits from two to three consecutive four-year terms shall take effect at twelve o'clock meridian on January 2, 2011, and shall be implemented in accordance with this section. Thereafter, a person elected as councilmember shall be eligible for election to three consecutive four-year terms.

3. A person elected as councilmember to a four-year regular term in 2002 and 2006 in council districts II, IV, VI and VIII, shall be eligible for election to three consecutive four-year terms. A person elected as councilmember to a four-year regular term in 2006 in council districts II, IV, VI, and VIII shall be eligible for election to three consecutive four-year terms.

4. A person elected to serve as councilmember for council districts I, III, V, VII and IX in the special elections held in 2008, shall be elected to a two-year regular term commencing on January 2, 2009. After the expiration of the two-year regular term councilmembers for council districts I, III, V, VII and IX shall thereafter shall be eligible for election to three consecutive four-year terms.

PROPOSAL NO. 55, ALTERNATIVE B-1 (Prospective)

Limit council term limits to three consecutive four-year terms and eliminate staggering of council terms.

Section 3-102. Number, Election and Terms of Office of Councilmembers —

The council shall consist of nine members. One member shall be elected from each of the nine districts hereinafter provided. Except as provided in Section [16-122] 16-, the regular terms of office of councilmembers shall be four years beginning at twelve o'clock meridian on the second day of January following their election. [The terms shall be staggered in accordance with Section 16-122.] No person shall be elected to the office of councilmember for more than [two] three consecutive four-year terms.

Section 13-116. City Elections —

1. In general: City elections shall be conducted in accordance with the election laws of the state insofar as applicable, but all city elective officers shall be elected by nonpartisan special elections. Except as otherwise provided in this charter, such special elections shall be held in conjunction with the primary and general elections of the applicable year. In the case of the council, such special elections shall be held in 2002 and every second year thereafter, and after the 2010 special elections, every fourth year thereafter. In the case of the mayor and the prosecuting attorney, such special elections shall be held every fourth year following the 1992 election.

Repeal Section 16-122 and insert as new language:

Section 16- . Transitional Provisions for the Elimination of Councilmembers' Staggered Terms and the Extension of Term Limits From Two to Three Consecutive Terms —

1. The staggering of councilmember terms shall end at twelve o'clock meridian on January 2, 2011, and shall be implemented in accordance with this section. Thereafter, councilmembers for all nine council districts shall be eligible for election to four-year terms commencing on January 2, 2011.

2. The extension of term limits from two to three consecutive four-year terms shall take effect at twelve o'clock meridian on January 2, 2011, and shall be implemented in accordance with this section. Thereafter, a person elected as councilmember shall be eligible for election to three consecutive four-year terms.

3. A person elected as councilmember to a four-year regular term in 2002 and 2006 in council districts II, IV, VI and VIII, shall thereafter be eligible for election to three consecutive four-year terms. A person elected as councilmember to a four-year regular term in 2006 in council districts II, IV, VI, and VIII shall thereafter be eligible for election to three consecutive four-year terms.

4. A person elected to serve as councilmember for council districts I, III, V, VII and IX in the special elections held in 2008, shall be elected to a two-year regular term commencing on January 2, 2009. After the expiration of the two-year regular term councilmembers for council districts I, III, V, VII and IX shall thereafter shall be eligible for election to three consecutive four-year terms.

PROPOSAL NO. 55, ALTERNATIVE B-2 (Retroactive)

Limit council term limits to three consecutive four-year terms and eliminate staggering of council terms.

Section 3-102. Number, Election and Terms of Office of Councilmembers —

The council shall consist of nine members. One member shall be elected from each of the nine districts hereinafter provided. Except as provided in Section [16-122] 16-, the regular terms of office of councilmembers shall be four years beginning at twelve o'clock meridian on the second day of January following their election. [The terms shall be staggered in accordance with Section 16-122.] No person shall be elected to the office of councilmember for more than [two] three consecutive four-year terms.

Section 13-116. City Elections —

1. In general: City elections shall be conducted in accordance with the election laws of the state insofar as applicable, but all city elective officers shall be elected by nonpartisan special elections. Except as otherwise provided in this charter, such special elections shall be held in conjunction with the primary and general elections of the applicable year. In the case of the council, such special elections shall be held in 2002 and every second year thereafter, and after the 2010 special elections, every fourth year thereafter. In the case of the mayor and the prosecuting attorney, such special elections shall be held every fourth year following the 1992 election.

Repeal Section 16-122 and insert as new language:

Section 16- . Transitional Provisions for the Elimination of Councilmembers' Staggered Terms and the Extension of Term Limits From Two to Three Consecutive Terms —

1. The staggering of councilmember terms shall end at twelve o'clock meridian on January 2, 2011, and shall be implemented in accordance with this section. Thereafter, councilmembers for all nine council districts shall be eligible for election to four-year terms commencing on January 2, 2011.

2. The extension of term limits from two to three consecutive four-year terms shall take effect at twelve o'clock meridian on January 2, 2011, and shall be implemented in accordance with this section.

3. A person elected as councilmember to a four-year regular term in 2002 and 2006 in council districts II, IV, VI and VIII, shall be subject to the three consecutive term limit and shall be eligible for election to a final four-year regular term in 2010. A person elected as councilmember to a four-year regular term in 2006 in council districts II, IV, VI and VIII, shall be subject to the three consecutive term limit and shall be eligible for election to two more consecutive four-year regular terms.

4. A person elected to serve as councilmember for council districts I, III, V, VII and IX in the special elections held in 2008, shall be elected to a two-year regular term commencing on January 2, 2009. After the expiration of the two-year regular term councilmembers for council districts I, III, V, VII and IX shall thereafter be eligible for election to three consecutive four-year terms.

PROPOSAL 75 TEXT

Section 11-107. Ethics Commission –

There shall be within the department of the corporation counsel for administrative purposes only an ethics commission which shall consist of seven members. The commission shall be governed by the provisions of Section 13-103 of this charter. In accordance with the prohibition in Article XIV of the Constitution of the State of Hawaii, the members of the ethics commission shall be prohibited from taking an active part in political management or in political campaigns.

The commission may appoint such staff and engage consultants as is necessary to assist it in the performance of its duties. Such staff and consultants may include attorneys who may advise the commission independently of the department of the corporation counsel. All staff positions shall be exempt from the provisions of Chapter 11 of Article VI of this charter, but such staff positions, except the position of executive director, shall be included in the position classification plan. The executive director shall be an attorney qualified to practice law in the State of Hawaii. The salary of the executive director shall be fixed by ordinance.

The commission is authorized to hold hearings and to conduct investigations concerning the application of this article of the charter and shall have the powers provided in Section 13-114 of this charter.

The commission may, on its own initiative, render advisory opinions with respect to this article of the charter. Advisory opinion shall be rendered pursuant to a written request of any elected or appointed officer or employee concerned and may be rendered pursuant to the request of any person. The commission shall publish its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of the persons involved.

The commission shall recommend appropriate disciplinary action against officers and employees found to have violated the standards of conduct established by this article of the charter or by ordinance. The appointing authority shall promptly notify the commission of the action taken on the recommendation.

PROPOSAL NO. 91

Create a new section:

Section 9-204. Clean Water, Natural Lands and Affordable Housing Fund —

1. In adopting each fiscal year's budget and capital program, the council shall appropriate a minimum of one percent (1%) of the estimated real property tax revenues to a fund known as the Clean Water, Natural Lands and Affordable Housing Fund.

2. Half of the moneys in this fund, or 1/2% of the estimated real property tax revenues, shall be used to purchase or otherwise acquire real estate or any interest therein for land conservation in the city for the following purposes: protection of watershed lands to preserve water quality and water supply; preservation of forests, beaches, coastal areas and agricultural lands; public outdoor recreation and education, including access to beaches and mountains; preservation of historic or culturally important land areas and sites; protection of significant habitats or ecosystems, including buffer zones; conservation of land in order to reduce erosion, floods, landslides, and runoff; and acquisition of public access to public land and open space.

3. The other half of the moneys in this fund, or 1/2% of the estimated real property tax revenues, shall be used to provide and maintain affordable housing for persons earning less than 50% of the median household income in the city for the following purposes: provision and expansion of affordable housing and suitable living environments principally for persons of low and moderate income through land acquisition, development, construction, and maintenance of affordable housing for sale or for rental, provided that the housing remains affordable in perpetuity.

4. The moneys in this fund may also be used for the payment of principal, interest, and premium, if any, due with respect to bonds issued subsequent to enactment and pursuant to Sections 3-116 or 3-117, in whole or in part, for the purposes enumerated in subsections 2 and 3 of this section and for the payment of costs associated with the purchase, redemption or refunding of such bonds. The

payment of principal, interest and premium, if any, includes bonds issued prior to enactment of this section.

5. At any given time, no more than five percent (5%) of this fund shall be used for administrative expenses.

6. Any balance remaining in this fund at the end of any fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The moneys in this fund shall not be used for any purposes except those listed in this section.

7. The council shall by ordinance establish procedures for the administration and expenditure of moneys in this fund. The appropriations to this fund shall not substitute, but shall be in addition to, those appropriations historically made for the purposes stated in this section.

PROPOSAL NO. 91

Create a new section:

Section 9-204. Clean Water and Natural Lands Fund and Affordable Housing Fund –

1. There shall be established a Clean Water and Natural Lands Fund and an Affordable Housing Fund. In adopting each fiscal year's budget and capital program, the council shall appropriate a minimum of one percent (1%) of the estimated real property tax revenues, one-half of which shall be deposited into the Clean Water and Natural Lands Fund and the remaining one-half of which shall be deposited into the Affordable Housing Fund.

2. Moneys in the Clean Water and Natural Lands Fund shall be used to purchase or otherwise acquire real estate or any interest therein for land conservation in the city for the following purposes: protection of watershed lands to preserve water quality and water supply; preservation of forests, beaches, coastal areas and agricultural lands; public outdoor recreation and education, including access to beaches and mountains; preservation of historic or culturally important land areas and sites; protection of significant habitats or ecosystems, including buffer zones; conservation of land in order to reduce erosion, floods, landslides, and runoff; and acquisition of public access to public land and open space.

3. Moneys in the Affordable Housing Fund shall be used to provide and maintain affordable housing for persons earning less than 50% of the median household income in the city for the following purposes: provision and expansion of affordable housing and suitable living environments principally for persons of low and moderate income through land acquisition, development, construction, and maintenance of affordable housing for sale or for rental, provided that the housing remains affordable in perpetuity.

4. The moneys in each fund may also be used for the payment of principal, interest, and premium, if any, due with respect to bonds issued subsequent to enactment and pursuant to Sections 3-116 or 3-117, in whole or in part, for the purposes enumerated in subsections 2 and 3 of this section and for the payment of costs associated with the

purchase, redemption or refunding of such bonds. The payment of principal, interest and premium, if any, includes bonds issued prior to enactment of this section.

5. At any given time, no more than five percent (5%) of the moneys in each fund shall be used for administrative expenses.

6. Any balance remaining in each fund at the end of any fiscal year shall not lapse, but shall remain in the fund, accumulating from year to year. The moneys in each fund shall not be used for any purposes except those listed in this section.

7. The council shall by ordinance establish procedures for the administration and expenditure of moneys in each fund. The appropriations to each fund shall not substitute, but shall be in addition to, those appropriations historically made for the purposes stated in this section.

STYLE COMMITTEE 7/19/06 MINUTES – ATTACHMENT #2

Notes on term limit numbers
7/19/06

In Proposal 55 B-1

- Odd district: Two year term 2008-2010, then three more 2010-2022. Total of 18 years or 20 years (depending on whether they were first elected in 2004, or 2002 for a two-year term).
- Even district: Three more terms 2010-2022. Total of 16 years or 20 years (depending on whether they were first elected in 2002 or 2006).

In Proposal 55 B-2

- Odd district: Two year term 2008-2010, then three more 2010-2022. Total of 18 years or 20 years.
- Even district, first elected in 2002 and reelected 2006: One more term 2010-2014. Total of 12 years.
- Even district, new in 2006: Two more terms 2010-2018. Total of 12 years.